

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In Re:	§	Case No. 10-36924-H4-7
	§	
CES Environmental Services, Inc.,	§	(Chapter 7)
	§	
Debtor	§	

**EMERGENCY MOTION TO EMPLOY AND PAY
IKON ENVIRONMENTAL SOLUTIONS, L.P.**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

*** EMERGENCY RELIEF HAS BEEN REQUESTED. IF THE COURT CONSIDERS THE MOTION ON AN EMERGENCY BASIS, THEN YOU WILL HAVE LESS THAN 21 DAYS TO ANSWER. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT THE EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU SHOULD FILE AN IMMEDIATE RESPONSE.***

TO THE HONORABLE JEFF BOHM, CHIEF UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, David Askanase, Trustee (“*Trustee*”) and files this Emergency Motion to Employ and Pay IKON Environmental Solutions, L.P. (the “*Motion*”), and shows the Court as follows:

1. On August 13, 2010, the Debtor filed Chapter 11 bankruptcy. On September 3, 2010, the Court entered its Order Converting Case to Chapter 7 [docket no. 84]. Thereafter, David Askanase was appointed Chapter 7 Trustee (the “Trustee”) to administer the assets of the bankruptcy estate.

2. The Griggs Road facility contains two vacuum boxes, Nos. 601 and 617, which require immediate attention, i.e. they each contain hazardous waste that must be removed and properly disposed of promptly and there is the danger of a “spill” due to the condition of the boxes. The TCEQ has contacted the Trustee and requested immediate attention to the matter.
3. The Trustee has contacted IKON Environmental Solutions, L.P. (“IKON”) to remove the waste. However the removal cost will be \$131,705.00. A true and correct copy of the IKON invoice for the work requested is attached as **Exhibit “A”**.
4. The estate has monies from the defaulted sale to Nu Terra Solutions Company, LLC and requests that this money be used for the purpose of remediation of the two vacuum boxes.
5. The estate has limited funds and the TCEQ has asked the Trustee to address these two vacuum boxes before the estate is out of funds.
6. The Trustee will obligate \$131,705.00 to address hazardous environmental conditions at the site, with first priority given to the removal and proper disposal of the contents of vacuum boxes 601 and 617. Once these funds are exhausted, the Trustee will not have the funds necessary to finish cleaning up the hazardous environmental conditions on this site. TCEQ will take any necessary actions consistent with Texas Health and Safety Code 361.133 to address solid waste and hazardous substances at the Site as appropriate, but such actions may not result in the complete cleanup of the Facility.

EMERGENCY CONSIDERATION

7. Emergency consideration is necessary to dispose of the waste material before any spillage or vandalism takes place. The undersigned Trustee has had extensive discussions with the TCEQ, who is also concerned that this be done quickly.

JURISDICTION, VENUE AND CONSTITUTIONAL AUTHORITY

8. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue of this proceeding in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter constitutes a core proceeding pursuant to 28 U.S.C. § 157(b)(2). This Court also has Constitutional authority to enter a final order as to this Motion. The Debtor is requesting this Court's approval of this Motion under express Bankruptcy Code provisions. Because this Court's determination as to this Motion is based entirely on federal bankruptcy law, the Supreme Court's opinion in *Stern v. Marshall*, 131 S.Ct. 2594 (2011), is inapplicable.

WHEREFORE, PREMISES CONSIDERED, David Askanase, Trustee, prays that the Court grant this Motion and allow him to employ and pay IKON Environmental Solutions, L.P. up to \$131,705.00 for the work set forth on **Exhibit "A"** and for such other relief as the Court finds appropriate and just to grant.

DATE: June 13, 2014.

Respectfully submitted,

/s/ David Askanase*

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing *Emergency Motion to Employ and Pay IKON Environmental Solutions, L.P.* was served to all parties in interest listed on the "Service List" attached hereto by U. S. mail, first class, postage prepaid on this 13th day of June, 2014.

/s/ David Askanase*

* *Signed with permission*